

# [The warn act and notice of termination](https://assignbuster.com/the-warn-act-and-notice-of-termination/)

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There were some negative publicity and some rather minor business losses; however, the indictment was later unsealed and Arthur Andersen experienced mass client defections and staggering financial losses. At is, in this case, is a decision by Arthur Andersen to send a notice of termination to 560 employees.
1. 2 Procedural Background
In response to these layoffs, many employees joined a class action in Federal District Court in which they alleged that Arthur Andersen violated the WARN Act. The purpose of this Act is to compel certain large employers to provide advance notice to employees, 60 days in this case when the company plans plant closings or mass layoffs. The plaintiffs, therefore, argued that because the notice provisions of the WARN Act were not complied with, a fact not in dispute, that they were entitled to back pay and other damages. Arthur Andersen conceded the lack of a 60 notice but argued that they were innocent by virtue of an exception to the WARN Act. More specifically, they argued that they were not required to comply with the notice provisions because they made the decision to lay off employees based on events that were not reasonably foreseeable. The District Court agreed that the decision of the DOJ to indict the company rather than individuals was not foreseeable, that that the mass client defections were not foreseeable, and that Arthur Andersen could not have reasonably foreseen the sudden turn in their business fortunes. As a result, the trial court found that the exception to the WARN Act was applicable and ruled in favor of Arthur Andersen. The case was then accepted, on appeal, by the seventh circuit.
1. 3 Legal Analysis and Holdings
The appellate court restated the general law and then proceeded to analyze the facts. Interestingly, the decision was not unanimous. One judge dissented. The majority, however, affirmed the trial court's rulings. They affirmed the trial court by paying careful attention to the legal standard governing the exception to the WARN Act. In particular, the appellate court was careful to draw a distinction between events that are possible and those which are reasonably foreseeable. A mere possibility of mass layoffs or a plant closing is not enough, in and of itself, to justify a successful action under the WARN Act. Rather, the mass layoffs or plant closing must have arisen from events which, according to standard business practices, were reasonably foreseeable. Thus, the legal standard was much higher than a merely speculative possibility.
In the final analysis, the appellate court concluded that many events and decisions, in this case, were unusual, unprecedented, and therefore not foreseeable. The court noted, for example, that standard practice in these types of cases is for the DOJ to indict individuals rather than entire companies. The evidence supported Arthur Andersen's allegation that it thought the DOJ would compromise and prosecute individuals in the end. When this did not happen, and when the indictment was unsealed, Arthur Andersen could justly be said to have been in a state of shock. They responded with layoffs and their motivation was survival. In short, the majority found that Arthur Anderson fit within the aforementioned exception to the WARN Act. They were thus not liable for violating the 60-day notice provision. A dissenting argument found the facts less persuasive to Arthur Andersen, argued that the exception did not apply because the link between the indictment and the layoffs was foreseeable and that the case should have been reversed and remanded to the trial court for further proceedings.